

REMARKS

Claims 1-44 are pending in the present application with claims 1, 11, 21, 32, 37 and 39 being the independent claims. There are no amendments to the claims by this response.

The Applicant respectfully requests that the Examiner withdraw all outstanding rejections in view of the following remarks.

Claim Rejections – 35 U.S.C. §103

Claims 1-44 stand rejected as being unpatentable over *Ellis et al.* (U.S. Patent 6,774,926), hereinafter *Ellis*, in view of *Moynihan* (U.S. Patent Application Publication 2002/0056119), and further in view of *Zustak et al.* (U.S. Patent Application Publication 2002/0104098), hereinafter *Zustak*. (See Final Office Action, pp. 4-32).

A. Independent Claim 1

With respect to claim 1, the Examiner states the following:

The combination of *Ellis* and *Zustak* does not clearly demonstrate wherein said establishing said private television channel comprises receiving via a user interface at said first home a selection of one or more devices that are permitted to receive personal media via the private television channel, wherein said selected one or more devices include a device associated with said second television and/or said second home.

(See *id.*, p. 6)(emphasis added by the Examiner). The Examiner then relies on *Moynihan* to overcome the above-admitted deficiency in *Ellis* and *Zustak*. (See *id.*). In this regard, the Examiner alleges that *Moynihan* discloses “selecting viewers (2nd users) for the receipt of personal media created by a channel owner (1st user) from a user interface,” finding support in paragraphs 56, 88, and 89. (See *id.*, p. 7). The Applicant respectfully disagrees.

The Applicant submits that "selecting viewers for the receipt of personal media created by a channel owner from a user interface," which the Examiner alleges is taught by *Moynihan*, is not equivalent to **"establishing said private television channel comprises receiving via a user interface at said first home a selection of one or more devices that are permitted to receive personal media via the private television channel,"** as recited by the Applicant in claim 1. No explanation or reason is provided as to why one would equate the limitation that is admittedly missing in *Ellis* and *Zustak* with the alleged teaching by *Moynihan* that is proposed by the Examiner. For example, the Examiner fails to show how the selection of viewers to receive media is in any way associated with **"establishing said private television channel,"** as recited in claim 1. In addition, selecting viewers to receive media is not the same or equivalent to receiving a selection of one or more devices that are permitted to receive media. Therefore, the Applicant submits that rejection of claim 1, and the reliance on *Moynihan* by Examiner, is based on an incorrect interpretation of the language recited by the Applicant in claim 1.

Moreover, even if the interpretation proposed by the Examiner were correct, which the Applicant does not concede, *Moynihan* does not disclose, teach, or suggest the admitted deficiency in *Ellis* and *Zustak*. In paragraph 56, *Moynihan* simply describes a software application, V-Mail, that when working with another software application, MediaMogul, both of which reside in the Internet/Network server shown in Figure 2, allows channel owners to publicize their software, schedule broadcasts, and otherwise bring viewers to their channel by sending e-mails out with links to their channel, and therefore to the video available in their channel. Paragraphs 88 and 89 describe the use of contact lists for sending the e-mails and, in addition, moving video content from the server to e-mail boxes or personal computing devices of those viewers that are brought to the channel in response to the e-mails sent. Therefore, paragraphs 56, 88, and 89 do not disclose **"establishing said private television channel comprises receiving via a user interface at said first home a selection of one or more devices that are permitted to receive personal media via the private television channel,"** as recited by the Applicant in claim 1.

With respect to *Moynihan*, the Examiner further states:

Moynihan additionally demonstrates a user interface at said first home for selection of one or more devices permitted to receive personal media (Fig. 12 allowing the channel owner to control access to content based on a number of factors including IP address, as described in Paragraph [0085]; with further reference to Step E of Fig. 4 and the "black out" feature, as described in Paragraphs [0075-0076]).

(See *id.*, p. 7). The Applicant respectfully disagrees.

With respect to Figure 12 and paragraph 85, *Moynihan* merely indicates that the MediaMogul multimedia management program lets user charge viewers to view content, password protect the content, hide content, or restrict access to content based on several criteria. Neither this section nor any other portion of *Moynihan*, however, discloses **"establishing said private television channel"** based on the ability of a user of the multimedia management program to control access to the content. Moreover, having a user control how and/or whether that user's content is accessed by viewers at the Internet/network server is not the same or equivalent to **"receiving via a user interface at said first home a selection of one or more devices that are permitted to receive personal media via the private television channel."**

With respect to Step E and paragraphs 75 and 76, *Moynihan* simply describes information that is provided by the user when uploading content, some of which may be restriction information. The "black out" feature that the Examiner points out is merely used at the Internet/Network server to restrict access to the content by geographic region, domain, or IP address. The "black out" feature is clearly not a selection of one or more devices permitted to receive media that is received through a user interface at a first home. Therefore, the Applicant submits that this portion of *Moynihan* also fails to disclose the subject matter recited by the Applicant in claim 1.

Based at least on the reasons provided above, the Applicant submits that the proposed combination of *Ellis*, *Zustak*, and *Moynihan* does not disclose, teach, or suggest the subject matter recited by the Applicant in claim 1. Accordingly, a *prima facie* case of obviousness has not been established and claim 1 is allowable.

Consequently, the Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. §103(a) be withdrawn.

The Applicant reserves the right to argue additional reasons beyond those set forth above to support the allowability of claim 1, should such a need arise in the future.

B. Independent Claims 11 and 21

Claims 11 and 21 are similar in various aspects to independent claim 1. Accordingly, claims 11 and 21 are submitted to be allowable at least for the same reasons that make claim 1 allowable. Consequently, the Applicant respectfully requests that the rejection of claims 11 and 21 under 35 U.S.C. §103(a) be withdrawn.

The Applicant reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 11 and 21, should such a need arise in the future.

C. Dependent Claims 2-10, 12-20, 22-31, and 41-43

Claims 2-10, 12-20, 22-31, and 41-43, which depend from one of independent claims 1, 11, and 21, are also respectfully submitted to be allowable at least for this reason alone. Consequently, the Applicant respectfully requests that the rejection of claims 2-10, 12-20, 22-31, and 41-43 under 35 U.S.C. §103(a) be withdrawn.

The Applicant reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-10, 12-20, 22-31, and 41-43, should such a need arise in the future.

D. Independent Claim 32

With respect to claim 32, the Examiner concedes that the combination of Ellis and Zustak does not clearly demonstrate “wherein said establishing said private television channel comprises receiving from a first home a selection of one or more devices that are permitted to receive the private television channel.” (See Final Office Action, p. 22)(emphasis added by the Examiner). The Examiner, however, relies on *Moynihan* to overcome this deficiency in *Ellis* and *Zustak*. (See *id.*).

The Applicant submits that, based at least on the reasons provided above with respect to claim 1, the proposed combination of *Ellis, Zustak, and Moynihan* does not disclose, teach, or suggest the subject matter recited by the Applicant in claim 32. Accordingly, a *prima facie* case of obviousness has not been established and claim 32 is allowable. Consequently, the Applicant respectfully requests that the rejection of claim 32 under 35 U.S.C. §103(a) be withdrawn.

The Applicant reserves the right to argue additional reasons beyond those set forth above to support the allowability of claim 32, should such a need arise in the future.

E. Independent Claims 37 and 39

Claims 37 and 39 are similar in various aspects to independent claim 32. Accordingly, claims 37 and 39 are submitted to be allowable at least for the same reasons that make claim 32 allowable. Consequently, the Applicant respectfully requests that the rejection of claims 37 and 39 under 35 U.S.C. §103(a) be withdrawn.

The Applicant reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 37 and 39, should such a need arise in the future.

F. Dependent Claims 33-36, 38, 40, and 44

Claims 33-36, 38, 40, and 44, which depend from one of independent claims 32, 37, and 39, are also respectfully submitted to be allowable at least for this reason alone. Consequently, the Applicant respectfully requests that the rejection of claims 33-36, 38, 40, and 44 under 35 U.S.C. §103(a) be withdrawn.

The Applicant reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 33-36, 38, 40, and 44, should such a need arise in the future.

CONCLUSION

The Applicant believes that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that further personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided. A prompt and favorable consideration of this application is respectfully requested. A notice of allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 13-0017 in the name of McAndrews, Held & Malloy, Ltd.

Respectfully submitted,

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/Francisco Castro/
Francisco Castro
Reg. No. 64,243

McAndrews, Held & Malloy, Ltd.
500 West Madison Street, 34th Floor
Chicago, IL 60661
Tel.: (773) 573-7039
Fax: (312) 775-8100